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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,165	04/09/2001	Junichi Ohgo	Q63951	6557
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EXAMINER SALTARELLI, DOMINIC D				
ART UNIT 2623		PAPER NUMBER		
MAIL DATE 04/25/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/828,165

Applicant(s)

OHGO, JUNICHI

Examiner

DOMINIC D. SALTARELLI

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No./Mail Date: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed February 27, 2008 have been fully considered but they are not persuasive.

Applicant argues that because the system of Majeti discloses the identification codes are added to content which is routed to a personal computer rather than a television set, the modification of Dureau and Clark in view of Majeti fails to disclose the limitation of "wherein said provider's server adds an identification code to the display data, and said television set selects the display data based on the identification code" (applicant's remarks, page 8).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the primary reference, Dureau, teaches that requested internet data is received and displayed on a television set (col. 4 line 65 - col. 5 line 12). The modification in view of Majeti enables Dureau's system to deliver specifically requested content directly to a user's web enabled television rather than merely providing access to the most popular content (a limitation of Dureau, col. 6 line 55 - col. 7 line 7).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 6, 10, and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau et al. (6,118,472, of record) [Dureau] in view of Clark (5,089,885, of record) and Majeti et al. (5,534,913, of record) [Majeti].

Regarding claims 1 and 6, Dureau discloses a method and system for using the Internet comprising:

Using a telephone line to send data indicating an operation desired by a user and sending the data to a provider's server (col. 4, lines 29-40, wherein the provider's server is service provider 13 shown in fig. 1);

Said provider's server (13) receives the data from said telephone line to carry out the operation desired by the user based on the data (via port 68, col. 4, lines 29-40), said provider's server generates display data showing the result of carrying out the operation (the display data is retrieved Internet data, col. 4, lines 41-50) and sends the display data to a broadcasting station (broadcasting station is broadcast center 12 shown in fig. 1, which receives the Internet data for broadcast, col. 3, lines 51-60 and col. 4, lines 41-50);

Said broadcasting station (12) which receives the display data from said provider's server (via port 74 of gateway 70 in fig. 1, col. 4, lines 41-45) and radio-transmits the display data (via satellite transmitter 30 in fig. 1);

A television set (fig. 1, TV 50) with radio-receives the display data from said broadcasting station (13), said television set displays the result of carrying out the operation based on the display data (col. 4, lines 48-50); and

wherein the data is sent to the provider's server via a telephone station (col. 4, lines 29-40, wherein the return channel 57 comprises telephone lines).

Dureau fails to disclose entering the data using a telephone in a telephonic capacity.

In an analogous art, Clark teaches using a telephone in a telephonic capacity to enter data to control the distribution and display of content on a television (col. 18, lines 29-45 and col. 21, lines 37-60), providing the benefit of a system of reduced complexity by relying solely upon conventional hardware (col. 2, lines 26-34).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Dureau to enter the data using a telephone in a telephonic capacity, as taught by Clark, for the benefit of a system of reduced complexity by relying solely upon conventional hardware.

Dureau and Clark fail to disclose said provider's server adds an identification code to the display data, and said television set selects the display data based on the identification code.

In an analogous art, Majeti teaches addressing data to particular users (col. 4, lines 26-45) wherein the data is broadcast to many users over a common broadcast channel (col. 4, lines 7-25), thus the receiver equipment must select received data for display based on the address information included in the broadcast, for the benefit of selectively targeting data to different users over a broadcast distribution network.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Dureau and Clark to include adding an identification code to the display data, and selecting the display data based on the identification code, as taught by Majeti, for the benefit of selectively targeting data to different users for exclusive reception over a broadcast distribution network.

Regarding claims 5 and 10, Dureau, Clark, and Majeti disclose the method and system of claims 1 and 6, wherein the display data are radio-transmitted/received via a broadcasting satellite (Dureau, fig. 1, satellite 35).

Regarding claims 11 and 13, Dureau, Clark, and Majeti disclose the method and system of claims 1 and 6, wherein the telephone sends the data to a telephone station (Dureau, service provider 13 is connected to return channel 57, which is a telephone line, col. 4, lines 29-40, thus is a telephone station), the telephone station connects the telephone to the Internet (Dureau, fig. 1, Internet

65), and wherein the provider's server (13) accesses the internet to retrieve the data (Dureau, col. 4, lines 41-50).

Regarding claims 12 and 14, Dureau, Clark, and Majeti disclose the method and system of claims 1 and 6, wherein the telephone comprises a first identification code and the television set comprises a second identification code, the first identification code and the second identification code being the same, and wherein the first identification code is registered with the provider's server (the data address of a particular user, Majeti, col. 4, lines 7-45).

4. Claims 2, 3, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau, Clark, and Majeti as applied to claims 1 and 6 above, and further in view of Shimomura et al. (6,526,580, of record) [Shimomura].

Regarding claims 2 and 7, Dureau, Clark, and Majeti disclose the method and system of claim 1 and 6, but fail to disclose the telephonic capacity is an Internet mail function of said telephone.

In an analogous art, Shimomura teaches using an Internet mail function to send data from a wireless device (SMS messages are mail messages being sent to an Internet server for the purpose of interacting with the Internet, col. 14, lines 40-56), for the benefit of providing an Internet back channel that is incorporated as part of an existing cellular telephone infrastructure.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Dureau, Clark, Majeti to include using an Internet mail function to send data from the wireless device, as taught by Shimomura, for the benefit of providing an Internet back channel that is incorporated as part of the existing cellular telephone infrastructure.

Regarding claims 3 and 8, Dureau, Clark, Majeti, and Shimomura disclose the method and system of claims 2 and 7, wherein said telephone is a mobile phone (Shimomura teaches using a cellular telephone, col. 14, lines 40-56).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dominic D Saltarelli/
Examiner, Art Unit 2623

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2623